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Attorneys for Plaintiff
MARVELL SEMICONDUCTOR, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MARVELL SEMICONDUCTOR, INC.,

Plaintiff,

v.

WI-LAN, INC.,

Defendant.

CASE NO. C07-05626 SI

**MARVELL SEMICONDUCTOR, INC.'S
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE SURREPLY,**

**SUPPORTING DECLARATION OF LINDA
J. THAYER,**

[PROPOSED] ORDER

Pursuant to Civil Local Rule 7-11, Marvell Semiconductor, Inc. ("Marvell") respectfully requests leave of Court to file a surreply in response to Wi-LAN, Inc.'s Reply in Support of Its Motion to Dismiss Marvell Semiconductor, Inc.'s Suit for Declaratory Relief. The surreply that Marvell requests leave to file is submitted herewith as Exhibit A.

There is good cause for filing the proposed surreply. Wi-LAN's Reply was served on June 6, 2008. On that same day, Wi-LAN sent Marvell a new covenant not to sue ("the June 6th Covenant") and filed the June 6th Covenant as Exhibit A to the Reply. In its Reply, Wi-LAN's makes arguments

1 in support of its Motion to Dismiss with reference to the June 6th Covenant. The June 6th Covenant
2 is new information that Marvell did not have on May 30, 2008, when it filed its Opposition.

3 Marvell requests leave to file a surreply to address facts and misleading arguments relating to
4 the new June 6th Covenant not to sue.¹ For example, Wi-LAN argues that, with the June 6th
5 Covenant, there is no remaining controversy between the parties. This is not true, and Marvell seeks
6 leave to file a surreply to respond to this argument.

7 Marvell's attorneys provided Wi-LAN's attorneys with a copy of the proposed surreply
8 (Exhibit A) and asked that Wi-LAN stipulate to its filing, but Wi-LAN refused to stipulate.

9 Marvell respectfully requests that, if this Motion is granted by the Court, the Court direct the
10 Clerk to enter into the record the surreply in Exhibit A.

11 **SUPPORTING DECLARATION OF LINDA J. THAYER**

12 I, LINDA J. THAYER, declare as follows:

13 1 I am an attorney licensed to practice before this Court and all courts of the State of
14 California, and am a member of Finnegan, Henderson, Farabow, Garrett & Dunner L.L.P., counsel
15 for Marvell in the above-entitled action.

16 2. The matters stated herein are based upon my personal knowledge, and if called as a
17 witness, would testify as to the following statements.

18 3. Exhibit A is a copy of the surreply that Marvell requests leave to file.

19 4. On June 6, 2008, shortly after receiving Wi-LAN's Reply and new covenant, I
20 contacted Wi-LAN's counsel and requested that Wi-LAN stipulate to Marvell's filing of a surreply.

21 5. On June 9, 2008, Wi-LAN's counsel responded that they needed to review a copy of
22 the surreply that Marvell intended to file before Wi-LAN would stipulate.

23 6. Early today, I emailed Wi-LAN's attorneys a copy of the surreply, filed herewith as
24 Exhibit A, and requested that Wi-LAN stipulate to its filing.

25
26
27 ¹ By addressing only this issue in the surreply, Marvell does not suggest that the Reply
28 contains no other matters requiring response. Marvell believes it can address those issues at the hearing.

